

***United States Court of Appeals
for the Second Circuit***



APPENDIX

B
P/
S

Docket No. 76-1274

Appellee,

- against -

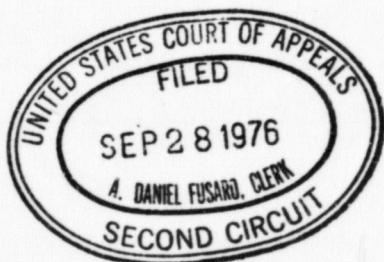
JOSEPH METZGER,

Appellant.

On Appeal from the United States District Court
Southern District of New York

APPELLANT'S APPENDIX

BALLON, STOLL & ITZLER
Attorneys for Appellant
1180 Avenue of the Americas
New York, New York 10036
(212) 575-7900



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1. CHARALAMBOS ANANATIDES-1-37,43-59,61-70,75,75,121-125.
2. AMILCAS ION LIVAS-1-16,25-32,37,44-51,58-61,64-70,75,76,121-125.
3. JAMES D. HANLON-1,10-22,36,51,56,57,65-69, 75,76.
4. MICHAEL BLONSKY-1,25-30,51,53,59,62,63,65,66,69.
5. COSTAS NASLAS-1,51,62,63,65,66,69,76.
6. PAUL KATRITSIS-1,51,56-59,65,66.
7. GREGORY SPARTALIS-35,38,64,69,77-80,84, 101,104,105,107-109,115-120,
125 & 126
8. JOSEPH METZGER-38-42,52-55,69,71-74,77,85,88,92,93,100,107,108,110,
114-120.
9. JOHN J. SHEVLIN-33-69,77,78,81-83,87,89-91,94-99,102,103,106-108,
109,111-120.
10. MICHAEL A. PANAYOTOPULOS 126 & 127

(ONE HUNDRED TWENTY-SEVEN COUNTS)

1-17-75	Katristsis (to post bail-Deft. R.O.R) Deft. os to surrender Greek and American passport to AUSA. Gordan. Deft. to report once a week to U.S. Atty.'s office at a convinient time to (him). Werker,J.
1-17-75	Costas Naslas-filed Personal Recognizance Bond in the sum of \$10,000. (unsecured) also to cover 75 Cr. 516 MP.
-1-17-75	Paul Katritsis-filed appearance bond in the sum of \$2,500.
-1-19-75	Deft. James Hanlon (atty. Peter Fleming present) pleads not guilty. Bail fixed at \$25,000. P.R.B. Deft. to surrender his passport to the U.S. Atty. by 9-22-75. Bail limits are to agreed upon by counsel for deft.and U.S. Atty. Pollack,J.
-1-19-75	James D. Hanlon-filed personal recognizance bond in the sum of \$25,000.
-1-30-75	J. Metzger-(atty.Morton S. Robson present) pleads not guilty -bail \$25,000 P.R.B.(unsecured)-deft.to surrender passport.
	J.J. Shevlin-(atty. Gregory J. Perrin present)pleads not guilty-bail \$25,000. P.R.B.(unsecured) deft. to surrender passport.
	M.A. Panayotopulos(atty. Russell H. Beatie,Jr. presnt)pleads not guilty-bail \$50,000.P.R.B. to be secured within 15 days by stockin Fla Corp. Deft. to surrender passport.
	Alldefts.(3) ordered photographed and fingerprinted.10 dys. for motions. Bail limits to incl. Continental U.S. Pollack,J.

DATE	PROCEEDINGS	Date of Judgment
9-30-75	C. Anagnostides, J. Hanlon, C. Naslas & P. Katritsis- filed notice of appearance of atty. by Peter Fleming, Jr. 100 Wall St., N.Y.C. tele: 248-8111.	
9-30-75	John Shevlin-filed notice of appearance by atty. Gregory J. Perrin, 225 Broadway, N.Y.C. 10007 tele: 349-1390.	
9-30-75	Michael Panayotopoulos-filed notice of appearance of atty. Russel H. Beatie, Jr. 140 Broadway, N.Y.C. tele: 344-8000.	
9-30-75	Joseph Metzger-filed notice of appearance of atty. by Morton S. Robson, 450 Park Avenue, N.Y.C. 10022 tele: 371-3900.	
9-30-75	P. Katritsis-filed warrant for arrest of deft. and marshal's return: warrant for arrest executed 9-14-75.	
9-30-75	Joseph Metzger-filed Personal Recognizance Bond in the sum of \$25,000.	
9-30-75	John J. Shevlin-filed Personal Recognizance Bond in the sum of \$25,000.	
9-30-75	M. Panayotopoulos-filed Personal Recognizance Bond in the sum of \$50,000.	
10-2-75	Filed Stip. & Order that bail limits for deft. James D. Hanlon are hereby extended to include the District of Massachusetts. Pollack, J.	
10-06-75	Filed Govt.'s memo. of law concerning pretrial discovery.	
10-20-75	Filed Stip. & Order that the conditions of bond for deft. M. Panayotopoulos are modified to permit the posting of securities owned by the wife of deft. M. Panayotopoulos, K. Panayotopoulos, in the amount and kind prescribed in the Court's order setting bond, etc. Pollack, J.	
11-14-75	John J. Shevlin (atty. Gregory J. Perrin present) now pleads guilty as to count 34 only. Other counts carried until date of sentence. Pre-sentence report ordered. For sent. 3-8-76 at 10 AM. Bail cont'd. Pollack, J.	
11-14-75	J. Shevlin-filed acknowledgment of constitutional rights.	
11-12-75	Filed Stip. & Order that the Firm of Rosner, Fisher & Schribner 401 B'way, N.Y.C. is substituted for the firm of Dewey, Ballantine, Bushby, Palmer & Wood as counsel for Michael A. Panayotopoulos. Pollack, J.	
12-30-75	Pretrial conference held. Deft. Panayotopoulos' motion for a severance is granted, with the Govt.'s consent. This indictment, as to deft. J. Metzger only, is consolidated with information 75 Cr. 1176. Pollack, J.	
11-07-76	Filed affdvt. of John E. Sprizzo re: joint representation of all four defts. (also in 75 Cr. 516)	

75-515 Consolidated as to deft. J. Metzger for trial only with 75 Cr. 1167.

DATE	PROCEEDINGS	Date Of Judgment
11-08-76	Filed Stip. & Order that the bail limits of deft. James D. Hanlon are extended to include the District of New Hampshire, Pollack, J.	
11-23-76	Filed Order that the U.S. Atty. is authorized to serve or cause to be served upon the Seiss Credit Bank a subpoena duces tecum etc. ret: 1-29-76 at 10AM room 905. and ordered that the U.S. Atty. give notice to counsel for deft. Metzger of the time and place fixed for the return of the subpoena and of the purpose of the proceeding them and there to be held. Pollack, J. m/n	
3/4/76	<i>the trial before Pollack, J.</i>	
3/11/76	<i>the trial before Pollack, J.</i>	
3/22/76	<i>the trial before Pollack, J.</i>	
03-24-76	<i>1-29-76</i>	
03-29-76	JOSEPH METZGER (atty. Morton S. Robson present) - BEFORE: POLLACK, J. - JURY TRIAL BEGUN.	
03-30-76	TRIAL CONTD.	
03-31-76	TRIAL CONTD.	
4-05-76	M. Panayotopolos-filed deft.'s acknowledgment of constitutional rights.	
4-29-76	Joseph Metzger (atty. Morton G. Robson present) before Judge Pollack, J. jury trial begun.	
4-30-76	Trial cont'd.	
4-31-76	" "	
4-01-76	" "	
4-02-76	" "	
4-05-76	" " Govt. Rests. - Deft's motion to dismiss is DENIED.	
4-05-76	Deft. Michael A. Panayotopolos (atty. Nancy Rosner present) now pleads guilty to count 127 only. Ct. 126 carried until date of sentence. Pre-sentence report ordered. For sentence 6-7-76 at 9:45AM room 1306. Bail cont'd. Pollack, J.	
4-06-76	TRIAL Contd.	
4-06-76	Filed Order that deft. M. Panayotopolos be examined by Dr. George Hamilton Wilkie, 903 Park Ave, NYC to determine his mental competence, etc. Pollack, J. mn	
4-07-76	TRIAL Contd.	
4-08-76	TRIAL Contd.	
4-09-76	& concluded. Jury Verdict-Not Guilty on each of Counts 39, 53, 55, 74, 119 and 120. Guilty on each of Counts 40, 41, 42 and 77. Jury polled & excused. Motion to set aside verdict denied. Pre-sentence report ordered. Sentencing 06-02-76 at 10 A.M., Rm. 1306. Deft. cont'd. released on bail. Pollack, J.	
4-27-76	Filed one envelope ordered sealed and impounded and placed in vault in room 66G. Pollack, J.	
4-27-76	Filed Order that 75 Cr. 515, 516, 1176 be tried together pursuant to Rule 13 as to deft. Costas Naslas, etc. Pollack, J. mn	
4-30-76	Pre-trial before Pollack, J.	
5-5-76	Filed transcript of record of proceedings, dated Mar 24, 30, 31 Apr 1, 1976.	
5-5-76	Filed transcript of record of proceedings, dated Apr. 2, 5, 6, 7, 1976.	
5-5-76	Filed transcript of record of proceedings, dated Apr 8, 9, 1976.	

DATE

PROCEEDINGS

05-10-76 Filed Order that the Govt. be granted leave to take the testimony of Werner Kunze by deposition on or about 5-13-76 at the U.S. Embassy, Bonn Federal Republic of Germany, such deposition to be admissible as substantive evidence at the trial of the foregoing defts., so far as otherwise admissible under the rules of evidence, and that each party bear its own expenses pending the conclusion of this matter and further order of the Court. Pollack, J. m/n (also 75 Cr. 1176)

5/30/76 *Pre Trial before Pollack, J.*

06-01-76 Filed Govt's sentencing memorandum (deft. Joseph Metzger)

06-01-76 Joseph Metzger (atty. Morton S. Robson) Filed Judgment - Cts. 40, 41, 42 and 77 - 3 yrs. impr. ea. ct. conc. Cts 38, 52, 54, 69, 71, 72, 73, 85, 88, 92, 93, 100, 107, 108, 110, 114, 115, 116, 117 and 118 are severed for separate trial pending appeal. Deft. cont'd. on bail pending appeal. Pollack, J. issued all copies.

06-01-76 Filed deft. Joseph Metzger's notice of appeal from judgment of 6-1-76. Issued all copies.

AND F. BURBANK, CT
W. E. Thompson
Deputy Clerk

Enc
111

COUNT THIRTY-NINE

The Grand Jury further charges:

On or about the 16th day of May, 1972, in the Southern District of New York, JOSEPH METZGER, the defendant, being an officer and employee of the National Bank of North America, the deposits of which were then insured by the Federal Deposit Insurance corporation, unlawfully and knowingly did willfully misapply moneys, funds and credits of such bank and moneys, funds, assets and securities intrusted to the care and custody of such bank and to the care and custody of such officer and employee, to wit, \$326,563 loaned to Galaxy Steamship Corp.

(Title 18, United States Code, Sections 656 and 2).

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COUNTS FORTY THROUGH FORTY-TWO

The Grand Jury further charges

On or about the 6th day of July, 1972, in the Southern District of New York, JOSEPH MITZGER, the defendant, being an officer and employee of the National Bank of North America, the deposits of which were then insured by the Federal Deposit Insurance Corporation, unlawfully and knowingly did willfully misapply moneys, funds and credits of such bank and moneys, funds, assets and securities intrusted to the care and custody of such bank and to the care and custody of such officer and employee, as follows:

<u>COUNT</u>	<u>AMOUNT LOANED</u>	<u>BORROWER</u>
40	\$115,000	Eltanin Navigation Corp.
41	\$125,000	Aries Navigation Corp.
42	\$125,000	Pisces Navigation Corp.

(Title 18, United States Code, Sections 656 and 2).

COULT FIFTY-THREE

The Grand Jury further charges:

On or about the 8th day of December, 1971, in the Southern District of New York, JOSEPH METZGER, the defendant, unlawfully, wilfully and, knowingly, did make a false statement and report, to wit,

"DIRECT AND B/ES
\$3,025,000"

which statement and report, as the defendant JOSEPH METZGER then and there well knew, was false, for the purpose of influencing the action of the National Bank of North America, New York, New York, the deposits of which were then insured by the Federal Deposit Insurance Corporation, upon a loan of \$5,500,000 to two corporations to be formed c/o Union Commercial Steamship Co., Piraeus, Greece.

(Title 18, United States Code, Sections 1014 and 2).

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1250
1

COUNT FIFTY-FIVE

The Grand Jury further charges:

On or about the 8th day of December, 1971, in the Southern District of New York, JOSEPH METZGER, the defendant, unlawfully, willfully and knowingly, did make a false statement and report, to wit,

"Comments: *** Mark is a very conservative operator and has always lived up to his obligations here at National Bank of North America."

which statement and report, as the defendant JOSEPH METZGER then and there well knew, was false, for the purpose of influencing the action of the National Bank of North America, New York, New York, the deposits of which were then insured by the Federal Deposit Insurance Corporation, upon a loan of \$5,500,000 to two corporations to be formed, c/o Union Commercial Steamship Co., Piraeus, Greece.

(Title 18, United States Code, Sections 1014 and 2).

GRAND JURY-FOUR

The Grand Jury further charges:

On or about the 28th day of April, 1972, in the Southern District of New York,

JOSEPH METZGER,

the defendant, unlawfully, wilfully and knowingly, did make a false statement and report, to wit,

"NBNA

Experience: ...The Scufalos Group has had aggregate borrowings as high as \$5,000,000. Today, Lark owes us slightly in excess of \$4,400,000."

which statement and report, as the defendant JOSEPH METZGER then and there well knew, was false, for the purpose of influencing the action of the National Bank of North America, New York, New York, the deposits of which were then insured by the Federal Deposit Insurance Corporation, upon a loan of \$3,200,000 to a corporation to be formed, c/o Union Commercial Steamship Company, Piraeus, Greece.

(Title 18, United States Code, Sections 1014 and 2).

GRAND JURY CHARGE

The Grand Jury further charges:

On or about the 16th day of June, 1972, in the Southern District of New York, GREGORY SPARTALIS, JOSEPH METZGER and JOHN J. SHEVILL, the defendants, being officers and employees of the National Bank of North America, the deposits of which were then insured by the Federal Deposit Insurance Corporation, unlawfully and knowingly did wilfully misapply moneys, funds, and credits of such bank and moneys, funds, assets and securities intrusted to the care and custody of such bank and to the care and custody of such officers and employees, to wit, \$3,200,000 loaned to the Epidavros Shipping Company Ltd.

(Title 18, United States Code, Sections 656 and 2.)

COUNTS ONE HUNDRED FORTY-THROUGH ONE HUNDRED FIFTY-TWO

The Grand Jury further charges:

On or about the dates hereinafter set forth, in the Southern District of New York, GREGORY SPANTALIS, JOSEPH METZGER and JOHN J. SHEVLIN, the defendants, being officers and employees of the National Bank of North America, the deposits of which were then insured by the Federal Deposit Insurance Corporation, unlawfully and knowingly did willfully misapply moneys, funds and credits of such bank and moneys, funds, assets and securities intrusted to the care and custody of such bank and to the care and custody of such officers and employees, as follows:

<u>COUNT</u>	<u>AMOUNT LOANED</u>	<u>BORROWER</u>	<u>DATE</u>
115	\$98,000	Global Seas, Inc.	March 3, 1972
116	\$125,000	Ionic Shipping Agency, Ltd.	March 3, 1972
117	\$45,000	Leadership Investments, Inc.	March 6, 1972
118	\$50,000	Eldorado Investments, Inc.	March 6, 1972
119	\$150,000	Valiant Navigation Corp.	March 13, 1972
120	\$150,000	Andromeda Navigation Corp.	March 13, 1972

(Title 18, United States Code, Sections 656 and 2).

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
UNITED STATES OF AMERICA :

v. :

JOSEPH METZGER, CHARALAMBOS AMANATIDES, : INFORMATION
a/k/a Harry Amanatides, AMILCAS ION :
LIVAS, a/k/a A. Ion Livas, : 75 Cr. 1176
COSIAS NASLAS, and GREGORY SPARTALIS, :
Defendants. :

-----X
The United States Attorney charges:

1. From on or about the 1st day of November, 1971, up to and including the 1st day of September, 1972, in the Southern District of New York, JOSEPH METZGER, CHARALAMBOS AMANATIDES, a/k/a Harry Amanatides, AMILCAS ION LIVAS, a/k/a A. Ion Livas, COSIAS NASLAS and GREGORY SPARTALIS, the defendants, and John J. Shevlin, named herein as a co-conspirator but not as a defendant, unlawfully, wilfully and knowingly did combine, conspire, confederate and agree together and with one another to commit offenses against the United States, to wit, violations of Title 18, United States Code, Section 215.

It was part of said conspiracy that GREGORY SPARTALIS and JOSEPH METZGER, the defendants, and John J. Shevlin, being

officers of the National Bank of North America, 44 Wall Street, New York, New York, a bank the deposits of which were then insured by the Federal Deposit Insurance Corporation, would and did unlawfully, wilfully and knowingly receive and consent and agree to receive fees, commissions, gifts and things of value from the defendants CHARALAMBOS AMANATIDES, a/k/a Harry Amanatides, AMILCAS ION LIVAS, a/k/a A. Ion Livas, and COSTAS NASLAS for procuring and endeavoring to procure loans by the aforesaid National Bank of North America to Tidal Marine International Corp. and its subsidiaries and to Spartan Pride Shipping Co. Ltd. and Spartan Endeavor Shipping Co. Ltd.

OVERT ACTS

In furtherance of said conspiracy and to effect the objects thereof, the defendants and their co-conspirators did commit the following overt acts, among others, in the Southern District of New York:

1. On December 24, 1971, CHARALAMBOS AMANATIDES, a/k/a Harry Amanatides, gave JOSEPH METZGER an envelope containing about ten thousand dollars in cash.
2. On or about January 6, 1972, COSTAS NASLAS signed a check payable to "CASH" in the amount of twenty thousand dollars.

3. On or about January 28, 1972, JOSEPH METZGER and John J. Shevlin went to the offices of Tidal Marine International Corp. at 30 Pine Street.

(Title 18, United States Code, Section 371).

COUNT TWO

The United States Attorney further charges:

On the 24th day of December, 1971, in the Southern District of New York, JOSEPH METZGER, the defendant, and John J. Shevlin, being officers of the National Bank of North America, 44 Wall Street,

New York, New York, a bank the deposits of which were then insured by the Federal Deposit Insurance Corporation, unlawfully, wilfully and knowingly, did receive and consent and agree to receive fees, commissions, gifts, and things of value, to wit, ten thousand dollars each, from the defendant CHARALAMBOS AMANATIDES, a/k/a Harry Amanatides, for procuring and endeavoring to procure loans by the aforesaid National Bank of North America to Aries Navigation Corp., Pisces Navigation Corp., Spartan Pride Shipping Co. Ltd. and Spartan Endeavor Shipping Co. Ltd.

(Title 18, United States Code, Sections 215 and 2).

COUNT THREE

The United States Attorney further charges:

On or about the 7th day of January, 1972, in the Southern District of New York, JOSEPH METZGER, the defendant, and John J. Shevlin, being officers of the National Bank of North America, 44 Wall Street, New York, New York, a bank the deposits of which were then insured by the Federal Deposit Insurance Corporation, unlawfully, wilfully and knowingly, did receive and consent and agree to receive fees, commissions, gifts, and things of value, to wit, ten thousand dollars each, from the defendants CHARALAMBOS AMANATIDES, a/k/a Harry Amanatides, and COSTAS NASLAS, for procuring and endeavoring to procure loans by the aforesaid National Bank of North America to Aries Navigation Corp., Pisces Navigation Corp., Spartan Pride Shipping Co. Ltd. and Spartan Endeavor Shipping Co. Ltd.

(Title 18, United States Code, Sections 215 and 2).

COUNT FOUR

The United States Attorney further charges:

On or about the 28th day of January, 1972, in the Southern District of New York, JOSEPH METZGER, the defendant, and John J. Shevlin, being officers of the

National Bank of North America, 44 Wall Street, New York, New York, a bank the deposits of which were then insured by the Federal Deposit Insurance Corporation, unlawfully, wilfully and knowingly, did receive and consent and agree to receive fees, commissions, gifts, and things of value, to wit, ten thousand dollars each, from the defendants CHARALAMBOS AMANATIDES, a/k/a Harry Amanatides, COSTAS NASLAS, and AMILCAS ION LIVAS, a/k/a A. Ion Livas, for procuring and endeavoring to procure loans by the aforesaid National Bank of North America to Aries Navigation Corp., Pisces Navigation Corp., Spartan Pride Shipping Co. Ltd. and Spartan Endeavor Shipping Co. Ltd.

(Title 18, United States Code, Sections 215 and 2).

COUNT FIVE

The United States Attorney further charges:

In or about March, 1972, in the Southern District of New York, JOSEPH MEIZGER, the defendant, and John J. Shevlin, being officers of the National Bank of North America, 44 Wall Street, New York, New York, a bank the deposits of which were then insured by the Federal Deposit Insurance Corporation, unlawfully, wilfully and knowingly, did receive and consent and

agree to receive fees, commissions, gifts, and things of value, to wit, ten thousand dollars each, from the defendants CHARALAMBOS AMANATIDES, a/k/a Harry Amanatides, and COSTAS NASLAS, for procuring and endeavoring to procure loans by the aforesaid National Bank of North America to Aries Navigation Corp., Pisces Navigation Corp., Spartan Pride Shipping Co. Ltd. and Spartan Endeavor Shipping Co. Ltd.

(Title 18, United States Code, Sections 215 and 2).

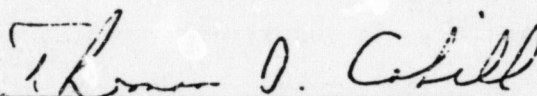
COUNT SIX

The United States Attorney further charges:

In or about April, 1972, in the Southern District of New York, JOSEPH METZGER, the defendant, and John J. Shevlin, being officers of the National Bank of North America, 44 Wall Street, New York, New York, a bank the deposits of which were then insured by the Federal Deposit Insurance Corporation, unlawfully, wilfully and knowingly, did receive and consent and agree to receive fees, commissions, gifts, and things of value, to wit, five thousand dollars each, from the defendant

CHARALAMBOS AMANATIDES, a/k/a Harry Amanatides, for
procuring and endeavoring to procure loans by the afore-
said National Bank of North America to Aries Navigation
Corp., Pisces Navigation Corp., Spartan Pride Shipping
Co. Ltd. and Spartan Endeavor Shipping Co. Ltd.

(Title 18, United States Code, Sections 215 and 2).



THOMAS J. CAHILL
UNITED STATES ATTORNEY

United States of America vs.

United States District Court for

DEFENDANT

JOSEPH METZGER

THE SOUTHERN DISTRICT OF NEW YORK

DOCKET NO.

75 CR. 515

JUDGMENT AND PROBATION/COMMITMENT ORDER

18-245 (6/74)

In the presence of the attorney for the government
the defendant appeared in person on this date

MONTH DAY YEAR
June 1, 1976

COUNSEL

☐ WITHOUT COUNSEL

However the court advised defendant of right to counsel and asked whether defendant desired to have counsel appointed by the court and the defendant thereupon waived assistance of counsel.

☒ WITH COUNSEL

Morton S. Rotser

(Name of counsel)

PLEA

☐ GUILTY, and the court being satisfied that
there is a factual basis for the plea,

☐ NOLO CONTENDERE,

☒ NOT GUILTY

There being a finding/verdict of

☒ NOT GUILTY. Defendant is discharged on counts 38, 52, 55, 74, 119
and 120.
☒ GUILTY on counts 40, 41, 42 and 77.

FINDING &
JUDGMENT

Defendant has been convicted as charged of the offense(s) of an officer and employee of the National Bank of North America, the deposits of which were then insured by the Federal Deposit Insurance Corporation, unlawfully and knowingly did wilfully misapply moneys, funds and credits of such bank and moneys, funds, assets and securities intrusted to the care and custody of such bank and to the care and custody of such officer and employee. (T. 18, U.S. Code, Sections 656 and 2.)

SENTENCE
OR
PROBATION
ORDER

The court asked whether defendant had anything to say why judgment should not be pronounced. Because no sufficient cause to the contrary was shown, or appeared to the court, the court adjudged the defendant guilty as charged and convicted and ordered that: The defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of THREE(3) YEARS on each of counts 40, 41, 42 and 77 to run CONCURRENTLY with each other. Counts 38, 52, 54, 69, 71, 72, 73, 85, 88, 92, 93, 100, 107, 108, 110, 114, 115, 116, 117 and 118 are Severed for separate trial pending Appeal.

Defendant advised of his right to Appeal.

Defendant continued on present bail pending appeal on condition that the appeal be prosecuted diligently.

**SPECIAL
CONDITIONS
OF
PROBATION**

**ADDITIONAL
CONDITIONS
OF
PROBATION**

**COMMITMENT
RECOMMEN-
DATION**

In addition to the special conditions of probation imposed above, it is hereby ordered that the general conditions of probation set out on the reverse side of this judgment be imposed. The Court may change the conditions of probation, reduce or extend the period of probation, and at any time during the probation period or within a maximum probation period of five years permitted by law, may issue a warrant and revoke probation for a violation occurring during the probation period.

The court orders commitment to the custody of the Attorney General and recommends,

It is ordered that the Clerk deliver a certified copy of this judgment and commitment to the U.S. Marshal or other qualified officer.

SIGNED BY

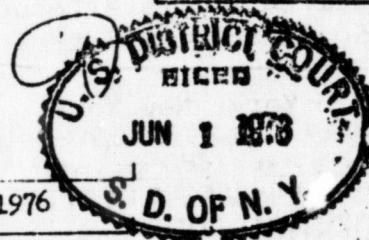
☒ U.S. District Judge

☐ U.S. Magistrate

Milton Pollack

MILTON POLLACK

Date June 1, 1976



5.00 PM

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

Docket Number 75 Cr.515 (M.P.)

Plaintiff,

Hon. Milton Pollack
(District Court Judge)

-against-

JOSEPH METZGER,

Defendant.

NOTICE OF APPEAL

Notice is hereby given that Joseph Metzger appeals to

the United States Court of Appeals for the Second Circuit from the ☒ Judgment ☐ order ☐ other
(specify) _____ entered in this action on Tuesday, June 1, 1976.
(Date)

Date June 1, 1976

To: Robert Fisk, Jr.

United States Attorneys Office
Southern District of New York
Foley Square

New York, New York

Address

Ballon, Stoll & Itzler
(Counsel for Appellant)

1180 Avenue of the Americas
New York, New York 10036

By

Morton S. Robson
Morton S. Robson

Phone Number 212-575-7900

DEPT: 160 SHERMAN AVE, MERRICK NY 11566

ADD ADDITIONAL PAGE IF NECESSARY

(TO BE COMPLETED BY ATTORNEY)

TRANSCRIPT INFORMATION - FORM B

▶ QUESTIONNAIRE

- ☐ I am ordering a transcript
☒ I am not ordering a transcript
Reason:
☒ Daily copy is available
☐ U.S. Attorney has placed order
☐ Other. Attach explanation

▶ TRANSCRIPT ORDER

- Prepare transcript of
☐ Pre-trial proceedings
☐ Trial
☐ Sentence
☐ Post-trial proceedings

▶ DESCRIPTION OF PROCEEDINGS
FOR WHICH TRANSCRIPT IS
REQUIRED (INCLUDE DATE)

The ATTORNEY certifies that he will make satisfactory arrangements with the court reporter for payment of the cost of the transcript. (FRAP 10(b)) ▶ Method of payment ☐ Funds ☐ CJA Form 21

ATTORNEY'S signature

DATE

June 1, 1976

▶ COURT REPORTER ACKNOWLEDGEMENT

To be completed by Court Reporter and
forwarded to Court of Appeals.

Date order received

Estimated completion date

Estimated number
of pages.

Date

Signature

(Court Reporter)

ORIGINAL

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2 Q Now, were you a member of the Shipping Loan
3 Committee in 1971 and 1972?

4 A Yes. I was, as I indicated before, I was
5 basically an alternate.

6 Q Did you attend any Shipping Loan Committee
7 which considered loans to Tidal Marine or to Mark Scufalos?

8 A In the entire year 1971-'72 I attended one
9 meeting involving one of the loans; yes, sir.

10 Q Do you recall approximately when that meeting
11 occurred?

12 A It was sometime in August of 1971.

13 Q And do you recall the Tidal Marine loan which
14 was considered at that meeting?

15 A Yes. It was Deneb Navigation.

16 Q Do you recall any of the discussion at a
17 loan committee meeting?

18 A Yes, I do.

19 Q Will you please state what was said?

20 A This was a loan presentation by Mr. Shevlin.
21 I had a chance to review the fact sheet the night before,
22 and the part that concerned me was comparing the two
23 financial statements that had been submitted in the fact
24 sheet. From memory I --

25 Q Excuse me, Mr. Jones.

1
2 Can you state what was discussed at a loan
3 committee meeting, what you said and what other people
4 said?

5 A Well, what I said is, I was concerned about
6 the change in the financial condition as reflected by
7 comparing the two interim statements. It seemed to me
8 that the company was growing in leaps and bounds.

9 From memory, the fact sheet had indicated that
10 the company intended to have some 200 vessels -- that's
11 from memory -- in the next four or five years. I was
12 concerned that they were going too fast, and I had felt
13 that we should slow down, and I had suggested that at the
14 meeting, that we should slow down as far as Tidal Marine
15 was concerned.

16 Mr. Shevlin mentioned that Shearson, Hamill
17 was considering an underwriting and that tidal was a good
18 customer of the bank and under -- at a point, then, I
19 said, "All right, we will -- as far as I am concerned,
20 I will approve this loan".

21 There was one other point that was mentioned,
22 that I think the amount outstanding, as shown on the
23 fact sheet, was \$5 million, I believe, and he had indicated
24 that even though we were considering a \$4 million loan,
25 the total wouldn't go up, because there was a loan that

1 mplt 11

"Metzger

2 "Q No. I think that you will find that the
3 covering memorandum to Mr. Jones, Mr. Metzger, saying
4 'Attached is a copy of the rules governing the extention of
5 credit which were adopted on July 6, 1970 and remain the same
6 through February 13, 1974.'

7 "A Yes, sir.

8 "Q But it appears to be a resolution adopted July 6,
9 1970, governing the extension of credit.

10 "A Yes.

11 "Q Did you have any knowledge of the contents of
12 that document priot to today?

13 "A I don't believe I did, Mr. Gordan.

14 "Q I assume you now worked at two banks. Banks have
15 rules about how the formalities of lending large sums of
16 money are supposed to be attended to, do they not?

17 "A They do.

18 "Q When you were at the National Bank of North
19 America, how did you know what the rules were?

20 "A I did not know what the rules were. I never
21 received a lending manual for the whole time that I was at
22 the National Bank of North America.

23 "Q Did you take any kind of credit course, any kind
24 of course on how to make a loan?

25 "A At the bank?

1 MP 15

Martin - cross

2 Those were the documents I would have to obtain
3 at the closing, amongst a lot of others.

4 He then said, "Also get the guarantee of Harry
5 Amanatides," and I said, "What about a stock pledge?" He
6 said, "Well, put it in the loan agreement, and we'll get it."

7 So when drafting the loan agreement, I put those
8 two requirements in the loan draft, and after I had it
9 drafted I would send it over to Mr. Hanlon a couple of days
10 before the closing, so if he had any comments or suggestions
11 or changes that he wanted, then I would have an opportunity
12 to discuss it with the lending officer -- in this case, Mr.
13 Metzger -- prior to the actual completion of the transaction.

14 I sent it over to him. I don't think he had any
15 comments at all. I prepared the stock pledge amongst the
16 assignments, had a whole closing list of maybe thirty or
17 forty documents, and I brought it with me to the bank that
18 day in a big briefcase, and I laid all the documents out,
19 and, as we were reviewing them and having --

20 Q Before we get to what happened, does that cover
21 the circumstances leading up to the preparing of the loan
22 agreement?

23 A Well, there was a loan agreement at the closing.
24 I had it there.

25 Q The requirement of the stock pledge had not been

1 MP 16 Martin - cross

2 included in the fact sheet as a requirement of the ship loan
3 committee; is that correct?

4 A As best as I remember, that is correct.

5 Q That was a requirement that was added later on,
6 as a result of a conversation between you and Mr. Metzger;
7 is that correct?

8 A That's correct.

9 Q Now, at the closing, did a problem develop with re-
10 spectsto that stock pledge agreement?

11 A Yes; there did.

12 Q Will you describe to us what that problem was and
13 who said what?

14 A Well, as we were going, myself and Mr. Hanlon,
15 at that time there must have been in the closing room Mr.
16 Katritsis, signing on behalf of the borrowers, and as we
17 were going through the list of documents, we came to the
18 stock pledge, and I said, "Can I have the stock pledge, Jim?"
19 And he said, "You aren't going to get it."

20 I sayd, "Why not?" I said, "It's something that
21 was in the loan agreement that I sent over to you two or
22 three days ago, and if you were going to tell me that I was
23 not going to get it then, don't wait until the day of the
24 closing. We've got too many other things to do."

25 I got upset. I said, "It's a requirement; it's in

2 the loan agreement, and I want it."

3 He said, "We'll see about that."

4 He got up and left the closing room. I got up, and
5 I followed him. He went down, and I believe, as best as I
6 can recollect, he spoke with Mr. Amanatides. At the same
7 time, Mr. Metzger was there. I went to Joe, and I said,
8 "Joe, they don't have the stock pledge."

9 Q What did Mr. Metzger say when you told him that
10 ou couldn't get the stock pledge?

11 A He said, "Then we won't close."

12 Q Then what happened?

13 A Well, I was standing -- I forget if I was standing
14 or sitting outside of Mr. Spartalis' office, and, as best
15 as I recollect, Mr. Amanatides went into Mr. Spartalis'
16 office, and they started talking. It was a language -- not
17 English. I think it was Greek -- well, I don't speak Greek.
18 And Spartalis came out, and at that time I'm almost sure I
19 was sitting down. I was going through the loan agreement. And
20 he said, "Pat, what's this about the stock pledge?"

21 I said, "Well, I have it in the loan agreement. I
22 asked for it. Mr. Hanlon has had the loan agreement for a
23 couple of days now, and all of a sudden, on the day of clos-
24 ing, Christmas Eve, he says he is not going to give it to me."

25 Spartalis said, "Is that a requirement for approval

1 MP 18 Martin - cross

2 by the loan committee?" And I checked the fact sheet, and
3 I said, "No; it's not. It's something I put in after I dis-
4 cussed it with Joe."

5 He said, "Well, if it's not a requirement -- these
6 are good customers. We can waive that."

7 And I wrote on my copy of the loan agreement,
8 "Waived, direction of Spartalis" -- something like that.

9 Q Did Mr. Metzger say anything when Mr. Spartalis
10 said he was going to waive that requirement?

11 A As best as I can recollect, he said, "Look: if
12 Spartalis is going to waive it, then let's go ahead."

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EOjw 1

Martin - cross

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Q Do you remember him saying, "Mr. Sparta is, it is your responsibility if you waive it" or words to the effect?

A No, I don't.

Q You say you made notation on the loan agreement. Did you have a copy of that loan agreement with you on which you made that notation?

A Yes, I do. I am not sure if I put it on the copy that I gave to the bank. Yes, I have my copy, closing copy of the loan agreement.

Q Are you referring to a notation on page 7 alongside of subparagraph D?

A Yes, I am.

MR. ROBSON: I would like to offer in evidence --

Q This is your copy of the agreement, is that correct?

A That's right. You see there are a lot of checks on there.

Q This is not a signed copy of the agreement?

A No. It says "Draft 12/21". I would have just been using that as a checkoff list.

Q This was placed on the document on Christmas Eve, December 24th, is that correct?

A As best I can recollect, yes.

1 eoju 2

Martin - cross

2 MR. ROBSON: I would like to offer that
3 in evidence, if your Honor please.

4 MR. GLEKEL: No objection, your Honor.

5 (Defendant's Exhibit X received in
6 evidence)

7 THE COURT: Anything else?

8 MR. ROBSON: Yes, sir.

9 May I pass this to the jury, if your Honor
10 please. I won't stop my examination.

11 THE COURT: Why don't you just read the words
12 in ink and that is it.

13 (Mr. Robson read from Defendant's Exhibit
14 X in evidence to the jury)

15 (Defendant's Exhibit Y marked for
16 identification)

17 Q Would you look at Defendant's Exhibit Y for
18 identification, Mr. Martin, and tell me if you know what
19 that is a copy of.

20 A That appears to be a copy of the list of
21 closing documents that I would have prepared on a yellow
22 sheet. That is my handwriting on it, yes.

23 Q Do you know where the original of that is?

24 A At this time I don't.

25 Q Can you tell me --

2 A Hold on one moment before I say that. No.
3 I don't know where it is.

4 Q Is this document in your handwriting?

5 A Yes, it is.

6 Q Can you tell me what those words are in the
7 right-hand column?

8 A It says, "Waived Spartalis".

9 Q This is a checklist which you prepared of the
10 documents that you were supposed to get at the closing,
11 is that correct?

12 A Yes, that's correct.

13 Q Was this prepared also on December 24th at the
14 time of the closing?

15 A No, you will see up there it was prepared on
16 December 22nd -- I have two columns, one December 22nd
17 at the very top, one December 24th. The checkmark on
18 December 22nd would be my list as I was preparing the
19 documents ready for execution. It generally would take
20 a week or a week and a half and two or three days before
21 the closing I would prepare a checkoff list to be sure I
22 had everything to bring with me and that is what I did.

23 On the column for the 24th I would have the
24 number executed and delivered to me and what have you.

25 Q And the words "waived Spartalis" and are along-

1 eoju 6 Martin - cross

2 two corporations?

3 A Most pledge agreements do so I presume that
4 one did. I would have prepared it in the normal course.

5 Q Were there any other problems which arose at
6 the time of that closing in addition to the problem of
7 the pledge agreement?

8 A Yes.

9 Q Could you tell us about that?

10 A The major problem was the fact that the --
11 I can never remember which ship -- one of the ships was
12 under Panamanian registry and in the normal course
13 prior to the closing we would have or we did send a telegram
14 to our attorneys in Panama asking them to check the ship's
15 register to see if the selling corporation had the owner-
16 ship of the vessel that it was going to sell to the buying
17 corporation.

18 Just prior to the closing, I don't know if
19 it was the day before, but I think that is about right,
20 we got a telephone call from the attorneys in Panama
21 saying that the selling corporation of that vessel,
22 which I had sent down, was not the registered owner.

23 I told that to Mr. Hanlon. I said, Jim, if
24 that is not the registered owner, the selling corporation
25 is not the registered owner, we cannot close because I

1 eoju 7

Martin - cross

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2 cannot get a clear certificate from the Panamanian authorities
3 saying that the vessel is free and clear of liens and
4 encumbrances.

5 So he, in effect, I should say it.

6 Q Did you discuss that problem with Mr. Metzger
7 at the closing?

8 A Yes, very definitely because it wasn't cleared
9 up on that date.

10 Q What did Mr. Metzger say with respect to the
11 problem?

12 A He said, well then we cannot make the loan,
13 if you cannot tell me, Pat, that the ship is free and
14 clear of liens and encumbrances, we cannot make the loan.

15 end t la

2 Q Then what happened?

3 A Well then, after discussion, I am not sure if
4 I was present at all of this, well, the other vessel,
5 the Liberian flag vessel, that registration was all right,
6 and it was just the Panamanian registration that was faulty,
7 so they agreed to split the loan proceeds and make half
8 the loan covering the Liberian vessel and would not lend
9 any money on the Panamanian vessel until its registry was
10 cleared up.

11 We drew up a separate side letter that day,
12 if I resigned by Paul Katritsis directing the bank to put
13 half of the loan proceeds in a bank's cash collateral
14 accounts, which the bank would have exclusive control over
15 and not to be released until the Panamanian vessel was
16 properly registered and the bank and I was satisfied that
17 the bank had ownership, not ownership, but the vessel was
18 free and clear and the bank's mortgage was proper.

19 Q Mr. Martin, for how long have you known Mr.
20 Metzger?

21 A I first met him in 19 -- probably in 1967 in
22 connection with a ship financing where I would have been
23 assisting one of the other partners, Mr. Tublin, most
24 likely.

25 Q Have you maintained a relationship with him

eoe 3

Bachman - direct

principles require that you have your loans diversified among borrowers rather than concentrated among a few borrowers.

Q During 1970 and early 1971 were you aware that a series of ship purchase loans had been made to Tidal Marine?

A Yes, I was aware of that relationship and the loans that we were making in connection with that relationship.

Q Did you ever personally negotiate or present to the Loan Committee any of these Tidal Marine loans?

A No, I never was involved in the negotiation or the presentation.

Q Directing your attention to August and September of 1971, did the Loan Committee at about that time make a decision concerning future lending policy as regards Tidal Marine?

A Yes. It was around that time that at a Committee meeting the issue was raised as to what our total loan exposure should be with Tidal Marine.

Now, this question was raised in an overall positive way that we at the time had no serious questions about the credit involved, but we were only concerned about the question of concentration. How much we would have outstanding to any one borrower.

1 eoe 4 Bachman - direct

2 Really the question was how many eggs would
3 you want in this one basket.

4 At that time we pretty much concluded that we
5 had reached the upper limit of our total exposure to Tidal
6 Marine.

7 Q Was Mr. Metzger present at this meeting?

8 A I believe he was present.

9 Q By the way, at this time were you aware of the
10 fact that the charter on a ship by the name of the Tagma
11 on which the bank had made a previous loan, had turned out
12 not to exist?

13 A No, I did not know that at that time.

14 Q Now, about this time, that is, August of 1971,
15 did an individual by the name of Mark Scufalos begin to
16 make a series of ship purchase loans at the bank?

17 A Yes. I believe we had had one earlier experien
18 with Mr. Scufalos, but then there was a time gap before
19 this relationship became active again.

20 Q Who was in charge of the Scufalos account?

21 A Mr. Metzger handled the Scufalos account.

22 Q Do you recall being present at the Loan Com-
23 mittee meetings at which the Scufalos ship purchase loans
24 beginning in August of 1971, were approved by the Loan
25 Committee?

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1 mpjw 11

Bachman - cross

2 MR. ROBSON: Can I have the bank rules?

3 Q Mr. Bachman, before you were called down by
4 the United States Attorney's office to prepare for this
5 case or before you started your investigation in 1972,
6 when was the last time before that that you had seen this
7 set of bank rules?

8 THE COURT: You mean a set of bank rules.

9 MR. ROBSON: That's right.

10 THE COURT: You are not talking about that
11 piece of paper.

12 MR. ROBSON: No, but an identical piece of
13 paper.

14 A Whenever a question came up I would check
15 the rules, so when you ask me, when was the last time I
16 saw it, I can't give you an answer.

17 Q Did you personally take the responsibility
18 for distributing this?

19 A No, I had it typed up, but I didn't have the
20 responsibility of distributing it.

21 Q Did you ever give one to Mr. Metzger?

22 A I didn't give any memorandums to individual
23 lending officers, I don't believe at any time, that applied
24 to all lending officers.

25 Q Do you know whether Mr. Metzger or anybody in

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1 mpjw 12 Bachman - cross

2 the ship loan division ever saw one of these?

3 A I was my understanding that they were

4 distributed throughout the bank.

5 Q Do you know whether Mr. Metzger ever saw

6 one of those?

7 A I don't know if Mr. Metzger ever saw one.

8 Q If Mr. Metzger stated he never saw one like

9 this, would that surprise you?

10 MR. GLEKEL: Objection, your Honor.

11 THE COURT: Sustained.

12 Q Did you ever discuss the so-called bank rules

13 that you have been testifying about with Mr. Metzger,

14 at any time?

15 A I discussed lending authority. I am sure he

16 knew from time to time that his lending authority was

17 being --

18 Q I asked you what you discussed, not what you

19 think he knew.

20 Did you ever discuss it with him?

21 A I believe I may have told him of his lending

22 authority, what it was.

23 Q You believe you may have?

24 A I can't say specifically.

25 Q Did you ever have orientation courses or

1 eoju 6

Bachman - cross

2 THE WITNESS: I do not have in my mind the
3 dates of the audits of our ship loan department.

4 So I cannot answer that.

5 THE COURT: All right.

6 Q In addition to the audits of your ship loan
7 department, were there not bankers audits or reports
8 made?

9 A The National Bank Examiners, the Office
10 of the Controller of the Currency examines the bank
11 regularly and they also examined the ship loan department.

12 Q In connection with those examinations, do
13 they not or did they not sit down with officers of the
14 department and other officers, senior officers of the bank
15 for the purpose of reviewing selected portfolios?

16 A Yes, that's correct.

17 Q In connection with that review, would they
18 not have had before them all of the long-term loans and
19 short-term loans to an affiliated group of companies?

20 A They would have had access to those records.
21 Their examination consists of evaluating the credit worthiness
22 of the borrowers and bringing to our attention and sitting
23 down and discussing with us those loans that they thought
24 required particular attention.

25 Q I show you what has been marked Government's

1 eoe 7

Bachman - cross

2 MR. GLEKEL: Objection, your Honor, repetitive.

3 THE COURT: I think so, sustained.

4 MR. ROBSON: Can I have him, your Honor, have
5 him identify the various ways to be sure we have them all
6 on the record?

7 THE COURT: Well, he wants you to summarize
8 your testimony for him.

9 Let's do it. Maybe it will help the jury
10 understand it.

11 Q Let's start from the top --

12 THE COURT: No, don't you summarize. Let the
13 witness do it.

14 Go ahead.

15 THE WITNESS: We have the loan review department
16 of the bank and the function of that activity is to review
17 all sizable loans made by that particular division and try
18 to do it once a year. That is the report -- you showed me
19 the report on Tidal Marine and that is the report that they
20 did.

21 I don't know what their cut-off point is on
22 loans. In some departments the cut-off point is they
23 review all loans 100,000 and over.

24 Other departments it would be 200,000 or 500,000
25 and over. Whatever they thought gave them a really compre-

1 eoe 8

Bachman - cross

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2 hensive picture of what that particular department was doing.

3 Their job was not to look to see if loans were
4 properly approved and properly authorized. Their whole
5 objective was to evaluate the credits, the particular loans
6 already on the books, as to collectibility.

7 Then we had the Auditing Department and their
8 principal function is to check the documentation. Do we have
9 the proper supporting papers for the loans outstanding.

10 Are the loans properly authorized. That depart-
11 ment is the typical auditing department of any bank and I
12 don't know how frequently they visit each of the depart-
13 ments in connection with their audit.

14 Then, as we have already discussed briefly,
15 the National Bank Examiners come through once a year to
16 review the major loans that we have at the bank. Their
17 function is to look at the larger transactions and then
18 visit with the lending officers only on those accounts
19 where there is undue exposure to the bank, where they think
20 the loan is subject to special mention or is considered
21 submarginal in some way.

22 Those three entities are the ones that provide
23 some kind of outside review.

24 Q In addition, you reviewed on the basis of reports
25 that you received, is that correct?

1 mpe 1

Shevlin - direct

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2 Q What lending officers were in charge of the
3 Panayotopoulos account?

4 A Mr. Spartalis was the officer of the account.
5 I did most of the fact finding on it.

6 Q Now, subsequent to the approval of the
7 Panayotopoulos three ship loans, did you have any discussions
8 with anyone concerning additional financing for Michael
9 Panayotopoulos or for Mark Scufalos?

10 A Yes. Sometime in 1971, November of 1971, Mr.
11 Spartalis told me to come into his office, shut the door,
12 and he told me that Mr. Amanatides was going to make a
13 proposal soon and that there would be money in for myself
14 and Mr. Metzger and Mr. Spartalis.

15 Q Then what happened?

16 A That same day, probably a half hour later, Mr.
17 Amanatides came into the office. Again we shut the door,
18 and a discussion took place concerning these proposals.

19 Q Who was present at this discussion?

20 A Just Mr. Spartalis and myself.

21 Q And Mr. Amanatides?

22 A And Mr. Amanatides, yes.

23 Q What was said?

24 A Mr. Spartalis said, "Mr. Amanatides has this
25 deal" and "How much money do you want for this?"

2 And I just threw my hands up in the air. I was taken
3 aback by the thing, and he said well, "what about a per-
4 centage or something like that," and I can't really answer.
5 So they talked back and forth, and they agreed that \$70,000
6 for these four deals would be paid to Mr. Metzger, myself
7 and Mr. Spartalis.

8 Q \$70,000 each?

9 A In cash, yes.

10 Q What were the four deals?

11 A Tropis, Tekton, Aries and Tachys.

12 Q Do you recall who were to be the borrowers?

13 A Two ships were being sold to Mr. Panayotopoulos,
14 and two ships were being sold to Mr. Scufalos.

15 Q What happened after the completion of this dis-
16 cussion?

17 A Well, Mr. Amanatides said he would get the paper
18 work up to us as soon as possible. Sometime that day,
19 shortly after, I went over to Mr. Metzger's office and I
20 told him about it. We went over to Mr. Spartalis' office.

21 Q What did you say to Mr. Metzger and what did
22 he say to you at his office?

23 A I told him that Mr. Amanatides came in with
24 these deals. There was going to be some money involved
25 with us. And we went over to Mr. Spartalis' office to dis-

1 cuss it. We closed the door and talked about it. Mr.
2 Metzger and I were mainly concerned that the deals were
3 good and the charters were good, because I don't think we
4 would have done them if we didn't think they were good deals.
5

6 Q Now, did a time come thereafter when these
7 loans were submitted?

8 A Yes, shortly thereafter the paper work came in,
9 and I recall that the Tropis and Tekton closed on Christmas
10 Eve, 1971.

11 Q Were you in the bank on that day?

12 A Yes, I was.

13 Q Were you at the closing of the Tropis and the
14 Tekton?

15 A No, I was not in on the closing, but it happened
16 on the third floor, where we all worked.

17 Q Did you see any of the people who were at the
18 closing?

19 A Yes. Mr. Amanatides was up there. Mr. Metzger
20 was, naturally, up there, and Mr. Spartalis was in the bank
21 that day, but he didn't participate in the closing.

22 Q Prior to the closing, had you had any discussions
23 concerning what was to happen on that day?

24 A Yes, I was told somewhere along the line, I
25 think Mr. Metzger and I were told that the \$70,000 would

1 eoju 4

Ventimiglia - cross

2 occasion from the National Bank of Westminster in London?

3 A I think there is one of these exhibits missing.

4 Q I am showing you what has been marked

5 Government's Exhibit 165 for identification.

6 A These checks were included in a sale for \$10,000
7 consisting of 20 at 100, 16, 500.

8 Q So in March 1972 there were 16 \$500 travelers
9 checks purchased, is that correct?

10 A Yes, March 3rd.

11 Q Ten of those travelers checks have been redeemed
12 is that correct?

13 A Yes.

14 Q Do you have any copies available from which
15 you can determine or any records from which you can
16 determine who redeemed the ten which were redeemed?

17 A I do not have the copies with me, but they
18 have been paid.

19 Q Do you know by whom they were redeemed, do
20 you have those records? Do you have copies of those
21 checks available?

22 A I recall looking at the checks and they
23 all had the same signature, Mr. Amanatides.

24 Q They all had the same signature?

25 A Yes.

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Q So the only ones that are missing of the purchase that was made in March '72 are these six, is that correct?

A Yes.

Q The others that are missing are part of a group that were purchased in December of 1971, is that correct?

A Yes.

Q Three months earlier.

MR. ROBSON: I have no further questions.

MR. GLEKEL: Nothing further, your Honor.

THE COURT: Thank you very much, you are excused.

(Witness excused)

THE COURT: All right, get the witness back.

J O H N J O S E P H S H E V L I N , resumed.

THE COURT: All right, Mr. Robson, you may cross examine.

MR. ROBSON: Thank you, your Honor.

CROSS EXAMINATION

BY MR. ROBSON:

Q Mr. Shevlin, I believe you testified that you joined the ship loan department in 1968, is that correct?

A Somewhere around that time, yes.

XXX

1 eoju 7 Shevlin - cross

2 that he handled himself, is that right?

3 A Yes, he did.

4 Q As a general rule, you did not assist Mr.
5 Metzger in the handling of his accounts, did you?

6 A In most cases, no, right.

7 Q As a general rule Mr. Metzger did not assist
8 you or Mr. Spartalis in your handling of your accounts,
9 is that correct?

10 A Not totally correct. As I explained before
11 in my testimony in connection with Tidal Marine, he
12 sort of -- on at least two or three occasions, I would
13 be handling customers for Mr. Spartalis and Mr. Metzger --
14 the customer would start to go to Mr. Metzger. This was
15 the case in Tidal and the case in a man named Larry Chow.

16 Q Did Mr. Metzger ever present a Tidal Marine
17 loan to the loan committee?

18 A Tidal Marine and subsidiaries per se I don't
19 believe so.

20 Q After August of 1971, in fact, Tidal Marine
21 never got any further long-term loans or mortgage loans
22 from the bank, isn't that correct?

23 That's correct.

24 Q In fact, the only activity that Tidal
25 Marine had with the bank thereafter was in connection

1 eojw 8 Shevlin - cross 954
2 with repayment of outstanding loans, is that not correct?
3 A No, that is not correct.
4 Q What other activities did Tidal Marine
5 have with National Bank of North America other than the
6 repayment of its outstanding loans?
7 A You said August of '71?
8 Q Yes.
9 A The ship deal to Mr. Panayotopoulos, the first
10 three ships sold to Mr. Panayotopoulos later switched and
11 became loans to Tidal Marine because the loans could
12 not be switched from their corporations and he had an
13 option to buy the ships after the loan was repaid.
14 Q Who handled that transaction for the loan
15 committee?
16 A I handled most of the backup work and there
17 were also, you know, there were short-term loans made
18 to Tidal after August of 1971.
19 Q That was in connection with repayment of
20 Tidal obligations, is that not correct?
21 A No, there was some new monies, I believe,
22 given to Tidal, short term loans.
23 Q Who handled those?
24 A Usually with the approval of Mr. Spartalis,
end take 5b 25 you know, wrote out the sheets.

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MP

Shevlin - cross

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Q Now, you testified that loans in excess of a lending limit had to be submitted to the loan committee for approval; is that correct?

A Yes, sir.

Q Can you recall any occasion during the four years that you were with the Ship Loan Department when a short-term loan was submitted to the loan committee for approval?

A I really can't name one. There may have been one or two, but, generally speaking, you are a hundred per cent correct. They're not brought to the committee's attention.

Q Generally speaking, Mr. Spartalis took the position, did he not, in the department, that short-term loans were within the discretion of his department and that they could be made by the loan officers without committee approval; is that right?

A He said to me at one time he could do just about whatever he wants in the department. Mr. Vogel had given him a lot of authority. But I knew as bank policy it was not proper to do it, but it was never questioned, actually.

Q In fact, that was the normal procedure in that department, was it not?

A Basically, that's the way it was handled; yes, sir.

Q Everybody in the department knew, did they not,

1 MP 2 Shevlin - cross

2 that the short-term loans were never g to be submitted
3 to the loan committee?

4 A That's true, but we also knew that they should be,
5 technically speaking, brought to their attention.

6 Q Technically speaking or not, in fact it was the
7 practice for the entire four-year period that you were
8 there, not to be submitted?

9 A You're correct.

10 Q As a matter of fact, is it not also true that in
11 almost every single case when a short-term loan was put on
12 the books, it was almost automatically in excess of the loan
13 officer's limit, because that same customer almost always
14 had a long-term loan outstanding at the same time?

15 A True.

16 Q When was the first time you took a bribe while you
17 worked for the National Bank of North America?

18 A Tidal was basically the first. I recall a situa-
19 tion with a man named Larry Chow. This was one of the few
20 accounts I brought into the bank. I think I brought in two
21 proposals --

22 Q My question is, when for the first time did you
23 take a bribe?

24 A I am trying to explain it to you.

25 Q I didn't ask for an explanation. I asked for a

1 MP 3

Shevlin - cross

2 time.

3 A Actually took it for doing something?

4 Q Yes.

5 A You are referring to a bribe as that?

6 Q Do you have any problem understanding what I mean
7 by a bribe? If you do, I will explain it.

8 A Yes. Will you explain it?

9 Q When for the first time did you take any money
10 from a customer of the bank for the purpose of doing some-
11 thing improper?

12 A I believe it was the Tidal situation.

13 Q That was in November or some time in December of
14 1971; is that right?

15 A Right.

16 Q And if I understand your testimony correctly, the
17 very first time that you heard about that bribe was when
18 you walked into the office of Mr. Spartalis, and he told
19 you that there was a deal coming along with Mr. Amanatides,
20 and you and he and Mr. Metzger were going to be paid; is that
21 right?

22 A Yes, sir.

23 Q Can you tell me, to the best of your recollection,
24 the words that Mr. Spartalis used in that conversation?

25 A As I said, he brought me into the office; he closed

MP 4

Shevlin - cross

the door and, as a matter -- I can't remember it word for word -- that Mr. Amanatides was bring in a proposal for four ships and that we would be making some money on it.

If you want me to elaborate a little further on that, I will.

Q Yes. I would like you to.

A From time to time, Mr. Spartalis and Mr. Metzger and I -- you would see all these men coming in for ship loans and we would be kidding around --

Q I don't want any stories. I just want to hear the conversation.

MR. GLEKEL: Objection, your Honor.

Q (Continuing) I want to hear what that conversation was, every word, as best you remember, or the substance.

A As I recall, Mr. Spartalis said to me that Mr. Amanatides was coming over shortly to make a proposal and that we would be getting something out of it.

Q Had you ever discussed a bribe --

MR. ROBSON: I withdraw that.

Q Did you understand that he was talking about a bribe?

A Yes.

Q Did he tell you what it was that you were going to be doing in order to get this bribe?

1 MP 5
2 A I took it to mean --

3 Q I didn't ask you what you took it to mean, Mr.
4 Shevlin. I said, did he tell you what you were going to be
5 doing in order to get that bribe?

6 A He told me that Mr. Amanatides would be in with a
loan proposal.

8 Q Did he tell you what you were supposed to do in
9 order to get a bribe?

10 A Not at that time, no.

11 Q Was this the first time that Mr. Spartalis had
12 ever spoken to you about a bribe?

13 A That he had ever spoken to me about a bribe? No.

14 Q He had spoken to you about bribes for you?

15 A He talked about commissions he had made when he
16 was with the original bank and --

17 Q Were you aware of the fact that Mr. Spartalis had
18 been taking bribes while he worked at the National Bank of
19 North America, to the tune of almost a million dollars?

20 A I did not know of any specific instances, no.

21 Q Were you aware of the fact that Mr. Spartalis had
22 a Swiss bank account, with almost a million dollars in it?

23 A No. In fact he never -- he told me he did not
24 receive any payments when Mr. Metzger and I were receiving
25 them.

2 Q So that on that occasion in November 1971, so far
3 as you knew, Mr. Spartalis had never taken a bribe, and you
4 had taken a bribe at the National Bank of North America; is
5 that right?

6 THE COURT: He just got through telling you that
7 Spartalis spoke about commissions, euphemistically stated,
8 on prior occasions, so your question is contradicting the
9 witness' testimony.

10 Q I may have misunderstood you. I thought you said
11 commissions prior at the National Bank of North America.

12 A Before the merger was supposedly permitted. I
13 was going to bring to your attention two cases that he
14 spoke to me about.

15 Q I am talking about while it was the National Bank
16 of North America and not commissions. By "commissions" I
17 understand you mean legitimate payments for bringing busi-
18 ness somewhere; is that correct?

19 A That's correct. It was never elaborated. Just
20 that he had received commissions for bringing business else-
21 where.

22 Q I am talking about bribes in 1971, at the National
23 Bank of North America.

24 A I was not aware of Mr. Spartalis receiving them.

25 Q And you had certainly never received them?

cent or something like that, and he and Harry talked, and they came up with a \$70,000 figure for all four ships.

Q Well, when Mr. Amanatides said, "How much do you want?" did you at least ask him what it was he wanted you to do?

A It was in connection with, as I said, with loan proposals he was presenting, to sell off some Tidal ships to Mr. Panayotopoulos and to Mr. Scufalos.

Q Loan proposals were presented to the bank all the time; is that right?

A Correct.

Q What was it he wanted you to do for one per cent or \$70,000 apiece, which is \$210,000? It's a lot of money, isn't it?

A Possibly because Tidal was in serious --

Q I didn't ask possibly. What did he say he wanted you to do?

A He wanted the loans passed so Tidal could get some working capital.

Q Did he tell you he wanted you to do anything improper?

A As I just explained, that's all that happened.

Q That's all that happened?

A I'm sure there were other things said. It's four

years ago, what took place during the conversation.

Q Did anybody in that conversation indicate what they expected Mr. Metzger to do?

A Not at that particular time, no.

Q Now, did they identify the transaction that you people were going to get all of this money for?

A There were four ships involved. That's all I knew. I didn't even know the names, because he hadn't brought in the paper work. He said he was selling four ships to Mr. Panayotopoulos and Mr. Scufalos.

Q How much was the loan to be for?

A Aggregately?

Q Yes.

A Off the top of my head, I don't know. I think it was ten million dollars for all four. It was a substantial amount.

Q One per cent of ten million dollars is not \$210,000, though, is it?

A As I said, it did not come down to percentage. They came down with a dollar figure. I said that was thrown out at one time, that they mentioned percentage, and since I wasn't familiar with this type of thing, I couldn't even venture on a percentage.

Q Then what happened?

1 isn't that right?

2 A Yes, sir.

3 Q And you walked into his office one day, out of a
4 clear, blue sky, and said, "Guess what, Joe. We're each
5 going to get \$70,000 for doing something. I don't know what,
6 but we're going to get it," and he wasn't even a little sur-
7 prised?
8

9 A No; he did not show much surprise.

10 Q I think you testified somewhere that he smiled,
11 though.

12 A I don't think I testified at this time he smiled.
13 I don't recall him smiling.

14 Q Did you ever tell anybody he smiled?

15 A You mean, did I ever see him smiling?

16 Q No. When you told him about the bribe, the 70,000
17 bucks he was going to get, did he smile?

18 A He didn't smile, as I recall, but it's a long time
19 ago.

20 Q In any event, the deal was somehow told, right?
21 You were going to do something, and he was going to do some-
22 thing that neither of you knew about yet, in return for which
23 you were going to get a rather substantial sum of money?

24 A Well, there were four proposals that were going to
25 be made.

1
2 obtained?

3 A I really don't know off the top of my head, but
4 it could have been P. Wigham-Richardson.

5 Q Did you have any problems in putting that loan
6 together? Were there any facts that made it difficult for
7 you to reach the point where you were going to recommend
8 these loans?

9 A As I recall, one of the things that Mr. Metzger
10 and I discussed in the meeting with Mr. Spartalis is that
11 we were very concerned that they would be very good deals
12 with very good charterers, and on the surface they appeared
13 to be good charterers. I was always concerned, from the time
14 of the Tama, when the charter was lost, which I thought was
15 lost honestly, that I always directed the attorney on any
16 Tidal situation to make sure, or on any Panayotopoulos deal,
17 to make sure the charters were good and they were there.

18 Q Let's digress for a minute. When there was the
19 loss of the charter in connection with the Tama, you thought
20 it was an accident?

21 A Yes. I was told by Mr. Naslas and Mr. Amanatides
22 that the charter had been lost through the broker's office,
23 through no fault of their own.

24 Q That is what you told Mr. Metzger?

25 A Well, that's what I thought. I happened to have

1 bsjw 10

Mylonas - direct

2 to know.

3 THE WITNESS: Yes. The work was divided up.

4 Q How was it divided up?

5 A Mr. Spartalis had his own accounts and Mr.
6 Metzger handled his own accounts, and both divisions
7 operated like two separate units. We never operated as
8 one department.

9 Q Do you recall whose account Tidal Marine and
10 its affiliates were?

11 A Yes, it was Mr. Spartalis.

12 Q Do you recall whose account Mark Scufalos
13 and Union Commercial was?

14 A It was Mr. Metzger's account.

15 Q Are you familiar with a monthly report that
16 was prepared at the bank with respect to the outstanding
17 short term loans?

18 A Yes, I was.

19 Q I show you Defendant's Exhibit D and I ask
20 you whether you can tell us what those are.

21 A Yes. This is a report that's prepared by loan
22 and discount on a monthly basis, and copies of this report
23 were submitted to ship loan division, to the various
24 officers. And I used to get a copy of this, too.

25 Q When you were with the loan and discount

1 bsjw 11

Mylonas - direct

2 department, was there anybody else to whom it was
3 distributed outside of the ship loan department?

4 A When I was in loan and discount department?

5 Q Yes.

6 A Yes. I used to give a copy to Mr. Hamer.

7 Q Who was Mr. Hamner?

8 A Mr. Hamner at that time, he was like above
9 Mr. Spartalis. He was the -- he controlled the shipping
10 division. Everything had to go through him, in other
11 words, approvals and stuff like that.

12 Q Did anybody subsequently replace Mr. Hammer?

13 A Yes.

14 Q Who was that?

15 A Mr. Bachman.

16 Q Did you ever see a copy of that report in
17 Mr. Bachman's possession?

18 A Yes, I did.

19 Q Could you describe the circumstances?

20 A His secretary used to sit right across from
21 me and she used to open up the mail, and in the morning
22 she used to come and talk to me and then at one instance
23 Mr. Bachman came out from his office and he was saying
24 to Mr. Metzger, "How come this loan is still in past due".
25 I remember this very distinctly.

bsjw 12

Mylonas - direct

Q Did he have anything in his hands when he was saying that?

A Yes, he had this report.

Q Indicating one of the reports in Defendant's Exhibit D?

A Yes, this.

Q Did you ever have any conversations with Mr. Bachman's secretary about these reports?

A No.

Q Did you ever see any copies of these reports in her possession?

A Yes, she used to open up the mail in the morning. And, you know, like, everybody would get a copy at the end of the month.

Q Did you see copies of these reports on her desk?

A Yes.

Q Do you recall getting Mr. Metzger a present when he left the bank?

A Yes, I did. I got him a going-away present. I got him an attache case.

Q Do you recall why you chose to get him an attache case?

A Yes, because he didn't have one.

2 Q Now, on November 15th, was the money available to
3 pay the full quarterly instalment?

4 A No; it wasn't.

5 Q Did you receive notification from anybody of that
6 fact?

7 A Yes. The notification had come, I believe, from
8 our own and discount department, through my secretary to me,
9 that there was a shortfall of money.

10 Q What did you do when you received that notice?

11 A Apparently the loan and discount department was
12 going to prepare tickets the day before to put through the
13 account for money that was actually due, and they notified
14 us, and we sent out a wire to Union Commercial and Mr.
15 Revinthis, stating that there would be a shortfall in that
16 account.

17 (Pause.)

18 MR. ROBSON: Your Honor, I don't want to hold this
19 up any longer. I will try to locate a document I am looking
20 for -- I will try to locate that later.

21 Q In any event, you sent a telex to Mr. Revinthis?

22 A Yes; that's correct.

23 Q And that was to Union Commercial in Greece?

24 A Yes.

25 Q Did you receive a reply to that telex?

2 A No; we did not receive a reply, to the best of my
3 recollection, and at that point I believe the day that the
4 loan was due I placed -- had my secretary place a call to Mr.
5 Revinthis in Greece.

6 Q And did you get him on the phone?

7 A Yes; we did.

8 Q Would you tell us what you said to him and what he
9 said to you with respect to this loan?

10 A Yes: that there was a shortfall in the account at
11 that particular time to cover these vessels, and he said
12 frankly he did not understand why we shouldn't have had
13 enough money in there other than the fact that it's possible
14 that this money was not being remitted from London, and
15 possibly going into another bank in London.

16 Q Who was in London?

17 A Union Commercial Steamship in London -- their
18 London office -- I'm sorry -- and Transoceanic, as to what
19 I was always told, was in London as well.

20 I believe someone, the other day -- I believe Mr.
21 Scufalos -- said they were based in Piraeus. That was news
22 to me.

23 Q Did Mr. Revinthis indicate that he would check to
24 see what was happening?

25 A Yes; he did.

1 MP 11 Metzger - direct 1366
2 Q I am sorry. Go ahead.

3 A In the meantime, in the interim, he had asked if
4 there was a possibility of a short-term borrowing, and I
5 told him I would have to speak with Mr. Spartalis, and I
6 did speak with Mr. Spartalis, and we agreed to a short-term
7 borrowing until freights had come in to cover t hat particu-
8 arl loan.

9 Q And is that the short-term borrowing which is
10 identified on this other chart here -- that is the \$242,000
11 loan to Eltanin; is that correct?

12 A Yes; that's correct.

13 Q And that was recommended by you; is that correct?

14 A Yes; that's correct.

15 Q And approved by Mr. Spartalis; is that correct?

16 A Yes; that's correct.

17 Q And was that loan repaid within the thirty-day
18 period, to your knowledge?

19 A I believe it was.

20 Q Had you ever previously had a problem collecting
21 the payment from a Union Commercial company?

22 A No; I did not.

23 Q To your knowledge, were all payments subsequent
24 to this payment made on time with respect to the various out-
25 standing loans?

1 gwbr

Metzger-direct

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t6 am

2 Q What about the Federal Reserve review, how was
3 that conducted?

4 A The federal bank examiners would come in and
5 go through the portfolio. At the conclusion of their
6 examination of the portfolio the names that they would pick
7 up as an average, I would say maybe ten or twelve names,
8 they would bring in all of the credit files of all the trans-
9 actions extended to that customer and the officer handling the
10 account would be joined by a Mr. Ira Weiss, who was the head
11 of the credit department, review department.

12 Mr. Gerald Backman, the operator of the bank,
13 Mr. McHugh, several Mr. Jones', several members of the
14 shipping committee, and you would discuss any questions that
15 the bank examiners would have and go over document by
16 document of loans outstanding to that particular client that
17 they were discussing.

18 Q Did you ever have any conversation, Mr. Metzger,
19 with Mr. Backman with respect to short-term loans and over-
20 drafts?

21 A Yes, I did.

22 Q What was that?

23 A Well, on several occasions Mr. Backman would
24 come to me to discuss short-term loans, in particular,
25 past due loans that appeared on our monthly reports submitted

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to us by our loan and discount department and ask what
is being done to clear up the past due situation, and on
overdrafts he would get the IBM runs brought to his at-
tention, he would then come in and discuss the overdraft
situation.

I recall very vividly Mr. Backman standing
in the doorway of my office telling Mr. Shevlin and I that
it is a little ridiculous to have some of these larger over-
drafts on the books, why don't you put short-term loan on
to cover these overdrafts so that the bank, in fact, could
make interest on this money since an overdraft is not
drawing any interest.

Q Subsequent to July 31, 1972, Mr. Metzger, did you
have occasion to speak to Mr. Shevlin?

A Yes, I did.

Q Did you have occasion to speak to Mr. Shevlin
frequently?

A Many times, yes.

Q In any of those conversations did you ever
ask Mr. Shevlin not to testify or not to copyright and give
information about you?

A Absolutely not.

Q In any of those conversations was there dis-
cussion about the question of cooperation and giving of